

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Southern Communications Services, Inc.)	
d/b/a Southern LINC)	CC Docket No. 96-45
)	
Petition for Designation as an)	
Eligible Telecommunications Carrier)	
in the State of Florida)	
)	
To: Wireline Competition Bureau)	
Wireless Telecommunications Bureau)	

**COMMENTS OF
TDS TELECOMMUNICATIONS CORP.**

TDS Telecommunications Corp. (TDS Telecom), parent company of Quincy Telephone Company (Quincy Telephone), submits these comments to oppose the Petition of Southern Telecommunications Services, Inc. d/b/a Southern LINC for Designation as an Eligible Telecommunications Carrier in the State of Florida (Petition).¹ Southern LINC has not demonstrated that it meets the statutory or public interest standards to be designated as an eligible telecommunications carrier (ETC). Southern LINC has indicated that it does not plan to serve the entire Quincy Telephone service area as required by the statute, but it has not asked for, or demonstrated that the public interest would be served by, redefinition of the Quincy Telephone service area. Accordingly, the Commission should deny the Petition with respect to the Quincy Telephone service area.

¹ Petition, *Federal-State Joint Board on Universal Service, Petition of Southern Communications Services, Inc. d/b/a Southern LINC for Designation as an Eligible Telecommunications Carrier in the State of Florida*, CC Docket No. 96-45 (filed Sept. 14, 2004; 1st Supp. Jan. 12, 2005; 2nd Supp. Jan. 21, 2005; Public Notice Jan. 21, 2005) (Petition).

I. THE COMMISSION SHOULD APPLY THE CRITERIA DEVELOPED IN THE PENDING RULEMAKING PROCEEDING TO THE SOUTHERN LINC PETITION

As an initial matter, TDS Telecom urges the Bureau to evaluate the Petition in accordance with the criteria for ETC designation that are developed in the pending rulemaking proceeding addressing ETC designation issues. The Commission is currently considering a Recommended Decision of the Federal-State Joint Board on Universal Service (Joint Board) recommending that the Commission adopt specific criteria for evaluating petitions for ETC designation.² Numerous commenters have supported the adoption of either permissive or mandatory ETC designation criteria.³ A group of rural telephone associations and carriers, including TDS Telecom, has urged the Commission further to adopt detailed guidelines for the application of such criteria.⁴ Under the Communications Act, the Commission is required to issue a decision on the Recommended Decision before the end of this month.⁵ Accordingly, it is likely that new ETC designation criteria will be in place before the Bureau makes a decision on the Southern LINC Petition.

² See Notice of Proposed Rulemaking, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, FCC 04-127 (rel. June 8, 2004) (Notice) (seeking comment on Recommended Decision, *Federal-State Joint Board on Universal Service Seeks Comment on Certain of The Commission's Rules Relating to High-Cost Universal Support and The ETC Designation Process*, CC Docket No. 96-45, FCC 04J-1 (rel. Feb. 27, 2004) (Recommended Decision)).

³ See, e.g., Comments of TDS Telecom, CC Docket No. 96-45, at 4-11 (Aug. 6, 2004); Comments of the National Association of State Utility Consumer Advocates, CC Docket No. 96-45, at 34-40 (Aug. 6, 2004); Comments of the Public Utilities Commission of Oregon, CC Docket No. 96-45, at 3-5 (Aug. 6, 2004); Comments of the United States Telecommunications Association, CC Docket No. 96-45, at 8-11 (Aug. 6, 2004); Comments of the Rural Telecommunications Associations, CC Docket No. 96-45, at 35-36 (Aug. 6, 2004); Comments of the State Telecommunications Associations and Rural Telephone Companies, CC Docket No. 96-45, at 6-9 (Aug. 6, 2004); Comments of the National Exchange Carrier Association, CC Docket No. 96-45, at 18-20 (Aug. 6, 2004) (all expressing support for federal guidelines specifying additional ETC eligibility requirements).

⁴ See *Ex Parte* Letter of WTA, ITTA, Various State Telecom Associations, TDS Telecom, and Fairpoint Communications, CC Docket No. 96-45 (Jan. 28, 2005).

⁵ See 47 U.S.C. § 254(a)(2) (“[T]he Commission shall complete any proceeding to implement subsequent recommendations from any Joint Board on universal service within one year after receiving such recommendations.”).

The Bureau here should apply any new criteria adopted in the ETC designation order to all pending ETC petitions, including the Southern LINC Petition. This is consistent with the approach the Bureau took when the Commission issued the *Virginia Cellular* and *Highland Cellular* orders adopting an interim standard for evaluating ETC petitions,⁶ and would ensure that the Bureau's decision on the Petition is consistent with the public interest as understood by the Commission at the time the decision is made. As it did after issuance of the *Virginia Cellular* order, the Bureau could, if necessary, give Southern LINC an opportunity to supplement its Petition with information attempting to demonstrate that Southern LINC meets any new criteria adopted by the Commission for a carrier seeking competitive ETC designation.

II. SOUTHERN LINC DOES NOT SATISFY THE STATUTORY OR PUBLIC INTEREST REQUIREMENTS FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER IN THE QUINCY TELEPHONE SERVICE AREA

As currently submitted, the Southern LINC Petition does not meet either the statutory requirements or the interim *Virginia Cellular/Highland Cellular* public interest standard for ETC designation in the Quincy Telephone service area.

A. Southern LINC Does Not Intend To Provide Service Throughout The Designated Service Area

The basic statutory requirements for any carrier seeking ETC designation are (1) to provide the supported services throughout the designated service area using its own facilities or a combination of its own facilities and resold service; and (2) to advertise the

⁶ Memorandum Opinion and Order, *Federal-State Joint Board on Universal Service, Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45, FCC 03-338 (rel. Jan. 22, 2004) (*Virginia Cellular*); Memorandum Opinion and Order, *Federal-State Joint Board on Universal Service Highland Cellular, Inc Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45, FCC 04-37 (rel. April 12, 2004) ("*Highland Cellular*"); Public Notice, *Parties are Invited to Update the Record Pertaining to Pending Petitions for Eligible Telecommunications Carrier Designations*, CC Docket No. 96-45, DA 04-999 (rel. Apr. 12, 2004) (inviting parties with then-pending petitions for ETC designation to submit additional information showing how they satisfied the standards set forth in *Virginia Cellular* and *Highland Cellular*).

services throughout the service area using media of general distribution.⁷ Southern LINC has not demonstrated that it meets these requirements.

Although the original Petition merely described the counties in which Southern LINC sought to provide service as an ETC, the January 12 Supplement included a map showing the carrier service areas in which Southern LINC seeks ETC designation. A further Supplement filed on January 21 disclaimed any intention to serve certain wire centers, including the Quincy wire center, which is one of three wire centers serving the Quincy Telephone service area.⁸ Under the Communications Act, an eligible telecommunications carrier must provide service throughout the designated service area. In the case of a rural telephone company, the service area consists of the entire study area unless the Commission and the state jointly determine, taking into account the recommendations of the Joint Board, that the service area should be redefined.⁹ Here, Southern LINC has stated that it intends to serve less than the entire Quincy Telephone study area, but has not requested, or demonstrated that the public interest would be served by, redefinition of the Quincy Telephone service area to allow Southern LINC to serve less than the entire study area. Accordingly, Southern LINC does not meet the statutory requirements for ETC designation in the Quincy Telephone service area.

In addition, it is not clear that Southern LINC will provide all the supported services even in the partial service areas it seeks to serve. For example, the Petition does not state that Southern LINC has met its Phase II E911 requirements in areas where public emergency service providers have requested E911 service. The Petition states that Southern LINC has met its Phase I requirements, that it has an obligation to meet Phase II requirements

⁷ 47 U.S.C. § 214(e)(1).

⁸ Although the January 21 Supplement used the term “rate center,” we presume that Southern LINC meant to identify wire centers it did not intend to serve.

⁹ 47 U.S.C. § 214(e)(5).

only upon request of a public safety answering point (PSAP) that has made arrangements for local delivery of wireless caller location information, and that fourteen Florida PSAPs have requested Phase II service.¹⁰ However, Southern LINC does not take the final step and state that it has actually met its Phase II requirements to the PSAPs that have requested such service.¹¹

B. The Public Interest Would Not Be Served By Designating Southern LINC As An Eligible Telecommunications Carrier In The Quincy Telephone Service Area

Under *Virginia Cellular* and *Highland Cellular*, the Bureau evaluating a petition for ETC designation must “weigh the benefits of increased competitive choice, the impact of the designation on the universal service fund, the unique advantages and disadvantages of the competitor’s service offering, any commitments made regarding quality of telephone service, and the competitive ETC’s ability to satisfy its obligation to serve the designated service areas within a reasonable time frame.”¹² Applying this standard, the Petition does not demonstrate that designating Southern LINC as a competitive ETC in the rural Quincy Telephone service area would serve the public interest.

With respect to the benefits of Southern LINC’s service, the Petition offers only conclusory statements about the benefits of competitive choice and mobile service. The Petition fails to acknowledge that Southern LINC already provides its service in the designated area and that another wireless carrier already serves the area as an ETC.¹³ The Petition does not make any

¹⁰ Petition at 7-8.

¹¹ *Id.* at 8. The attached Declaration also states only that “Southern LINC *will* comply with all Phase II E-911 requirements.” Exhibit 3, Declaration ¶ 7e. There is no affirmative statement that Southern LINC currently is in compliance with these requirements.

¹² *Virginia Cellular* ¶ 28; *Highland Cellular* ¶ 22.

¹³ Nextel Partners has been designated as a competitive ETC serving the Quincy Telephone service area. See Order, *Federal-State Joint Board on Universal Service, NPCR, Inc. d/b/a Nextel Partners Petitions for Designation as an Eligible Telecommunications Carrier in the States of Alabama, Florida, Georgia, Pennsylvania, Tennessee, and Virginia, Nextel Partners of Upstate New York, Inc. d/b/a Nextel Partners Petition for Designation as an Eligible Telecommunications Carrier in the State of New York*, CC Docket No.

(continued...)

showing that Southern LINC's "universal service" offering would offer any new, unique benefits that are not already available in the service area.

The Petition also fails to offer detailed information about the scope of Southern LINC's coverage of the designated service area or to provide detailed buildout plans demonstrating Southern LINC's commitment to provide quality service throughout the designated service area. Instead, Southern LINC states that it "does not have specific construction plans in place for implementation after obtaining ETC designation," and that "[t]he priority under which the construction plan is to be undertaken is subject to change depending upon requests for service and other market factors."¹⁴ Southern LINC claims to be "committed to continue to enhance and improve its facilities in Florida," but does not commit to undertake such improvements and enhancements in rural, high-cost areas or areas that currently are poorly served by Southern LINC's network. These statements simply do not evidence a genuine commitment to provide high-quality, "universal" service throughout the area in which Southern LINC seeks ETC designation.

Finally, the Petition again offers only a conclusory statement that granting the Petition will have "minimal" financial impact on the Universal Service Fund. The Petition fails to acknowledge the fact that the Quincy Telephone service area is already served by more than one ETC.¹⁵ Commenters in the pending ETC designation proceeding have recognized that designating multiple competitive ETCs in rural high-cost areas may not be the most efficient way

(continued...)

96-45, DA 04-2667 (rel. Aug. 25, 2004, amended by Erratum rel. Sept. 13, 2004) (Nextel ETC Order). AT&T Wireless has also sought designation as a competitive ETC in the Quincy Telephone service area. *See* Petition, *Federal-State Joint Board on Universal Service, Petition of AT&T Wireless Services, Inc. for Designation as an Eligible Telecommunications Carrier Pursuant to Section 214(e)(6) of the Communications Act, FCC 97-419*, CC Docket No. 96-45 (filed May 3, 2004, Public Notice rel. May 21, 2004).

¹⁴ Petition at 11-12.

¹⁵ *See supra* note 13.

to deploy the limited resources of the Fund.¹⁶ In addition, designating multiple ETCs in a single rural service area clearly has a cumulative impact on the Fund. These issues must be considered in evaluating whether the public interest would be served by designating an additional ETC in a rural service area. Here, in conjunction with the other concerns identified above, they weigh strongly against designating Southern LINC as an ETC in the Quincy Telephone service area.

CONCLUSION

For the foregoing reasons, Southern LINC has not demonstrated that it meets the statutory or public interest requirements for ETC designation in the Quincy Telephone service area. Accordingly, TDS Telecom urges the Commission to deny the Petition.

Respectfully submitted,

TDS TELECOMMUNICATIONS CORP.



By: Mary Newcomer Williams
COVINGTON & BURLING
1201 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2401
Tel.: 202-662-6000
Fax: 202-662-6291
Counsel to TDS Telecom

February 4, 2005

¹⁶ See, e.g., Comments of the Alaska Telephone Association, CC Docket No. 96-45, at 4 (Aug. 6, 2004) (“Perhaps the first question that should be asked by any regulatory body in the consideration of an ETC application should be whether there are any unserved areas and, if so, what is the most cost-effective method to serve them. The additional funding for infrastructure extension to an ILEC with carrier of last resort (‘COLR’) responsibility might have a comparatively miniscule effect on the universal service fund when compared with the designation of a competitive ETC for the same area.”); Comments of the Coalition of State Telecommunications Association and Rural Telephone Companies, CC Docket No. 96-45, at 15-16 (Aug. 6, 2004); Comments of CenturyTel, Inc., CC Docket No. 96-45, at 17-18 (Aug. 6, 2004).